



January 17, 2008

HOUSE BILL No. 1204

DIGEST OF HB 1204 (Updated January 15, 2008 12:46 pm - DI 114)

Citations Affected: IC 8-1; IC 10-13; IC 36-1; noncode.

Synopsis: Emergency alert system advisory committee. Establishes the emergency alert system advisory committee to: (1) develop, update, and monitor the effectiveness of the state emergency alert system plan; (2) make recommendations concerning acquisition of appropriate technology and equipment to make the emergency notification system effective on a timely basis in all portions of Indiana; and (3) through the state police department, purchase appropriate technology and equipment to equip local primary relaying stations with monitoring equipment. Appropriates \$350,000 from the state general fund to the state police department for the committee's expenses during the state fiscal year beginning July 1, 2008. Allows a county or municipality to adopt an ordinance requiring a video service franchise holder to provide the equipment necessary to provide both visual and auditory emergency information and instructions during an emergency or disaster period. Provides that a video service franchise certificate shall contain a statement that the authority granted by the certificate is subject to an emergency video override ordinance adopted by a municipality or county.

Effective: Upon passage; July 1, 2008.

Crooks

January 10, 2008, read first time and referred to Committee on Technology, Research and Development.
January 16, 2008, amended, reported — Do Pass.

HB 1204—LS 7000/DI 75+



C
o
p
y

January 17, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

HOUSE BILL No. 1204

A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-34-17, AS AMENDED BY P.L.1-2007,
2 SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 17. (a) Not later than fifteen (15) business
4 days after the commission receives an application under section 16 of
5 this chapter, the commission shall determine whether the application
6 is complete and properly verified. If the commission determines that
7 the application is incomplete or is not properly verified, the
8 commission shall notify the applicant of the deficiency and allow the
9 applicant to resubmit the application after correcting the deficiency. If
10 the commission determines that the application is complete and
11 properly verified, the commission shall issue the applicant a certificate
12 of franchise authority. A certificate issued under this section must
13 contain:
14 (1) a grant of authority to provide the video service requested in
15 the application;
16 (2) a grant of authority to use and occupy public rights-of-way in
17 the delivery of the video service, subject to:

HB 1204—LS 7000/DI 75+



C
o
p
y

(A) state and local laws and regulations governing the use and occupancy of public rights-of-way; and

(B) the police powers of local units to enforce local ordinances and regulations governing the use and occupancy of public rights-of-way; ~~and~~

(3) a statement that the authority granted under subdivisions (1) and (2) is subject to the holder's lawful provision and operation of the video service; **and**

(4) a statement that the authority granted under subdivisions (1) and (2) is subject to an emergency video override ordinance adopted by a unit under IC 36-1-4-20.

(b) Except as provided in subsection (c) and sections 16(c) and 28 of this chapter, the commission may not require a provider to:

(1) satisfy any build-out requirements;

(2) deploy, or make investments in, any infrastructure, facilities, or equipment; or

(3) pay an application fee, a document fee, a state franchise fee, a service charge, or any fee other than the franchise fee paid to a local unit under section 24 of this chapter;

as a condition of receiving or holding a certificate under this chapter.

(c) This section does not limit the commission's right to enforce any obligation described in subsection (b) that a provider is subject to under the terms of a settlement agreement approved by the commission before July 29, 2004.

(d) The general assembly, a state agency, or a unit may not adopt a law, rule, ordinance, or regulation governing the use and occupancy of public rights-of-way that:

(1) discriminates against any provider, or is unduly burdensome with respect to any provider, based on the particular facilities or technology used by the provider to deliver video service; or

(2) allows a video service system owned or operated by a unit to use or occupy public rights-of-way on terms or conditions more favorable or less burdensome than those that apply to other providers.

A law, a rule, an ordinance, or a regulation that violates this subsection is void.

SECTION 2. IC 10-13-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 7. Emergency Alert System Advisory Committee

Sec. 1. As used in this chapter, "emergency alert system" refers to the system described in 47 CFR 11.

C
o
p
y



1 Sec. 2. As used in this chapter, "committee" refers to the
2 emergency alert system advisory committee established by section
3 3 of this chapter.

4 Sec. 3. The emergency alert system advisory committee is
5 established.

6 Sec. 4. (a) The committee consists of the following members:

7 (1) The superintendent or the superintendent's designee. The
8 superintendent or the superintendent's designee is the
9 committee's chair.

10 (2) The executive director of the department of homeland
11 security or the executive director's designee.

12 (3) The state health commissioner or the commissioner's
13 designee.

14 (4) An individual representing the National Weather Service,
15 appointed by the governor.

16 (5) An individual representing television broadcasters in
17 Indiana, appointed by the governor.

18 (6) An individual representing radio broadcasters in Indiana,
19 appointed by the governor.

20 (b) The following apply to a committee member appointed
21 under subsection (a)(4), (a)(5), or (a)(6):

22 (1) The term of a member begins on the later of the following:

23 (A) July 1 after the member is appointed.

24 (B) The day the member accepts the member's
25 appointment.

26 (2) The term of a member expires on July 1 of the fourth year
27 after the year the member's term begins.

28 (3) A member may be reappointed to serve a new term.

29 Sec. 5. The committee shall do the following:

30 (1) Develop, update, and monitor the effectiveness of the state
31 emergency alert system plan.

32 (2) Make recommendations concerning the acquisition of
33 appropriate technology and equipment to make the
34 emergency notification system effective on a timely basis in all
35 parts of Indiana.

36 (3) Through the department, purchase appropriate
37 technology and equipment to equip local primary relaying
38 stations with monitoring equipment.

39 Sec. 6. The department shall provide administrative and staff
40 support for the committee.

41 Sec. 7. (a) The committee's expenses shall be paid from
42 appropriations made by the general assembly.

C
o
p
y



(b) Money received by the committee as a grant or a gift is appropriated for the purposes of the grant or the gift.

Sec. 8. (a) Each member of the committee who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for travel expenses as provided in IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 9. The affirmative votes of a majority of the members on the committee are required for the committee to take action on any measure.

SECTION 3. IC 36-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all units.

(b) ~~Section~~ Sections 11 and 20 of this chapter ~~does~~ do not apply to townships.

SECTION 4. IC 36-1-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) As used in this section, "emergency video override" means the interruption of video programming with:

- (1) video programming on at least one (1) channel; and
- (2) an audio message on all channels simultaneously; created to alert viewers of an emergency or a disaster.

(b) As used in this section, "franchise holder" refers to:

- (1) a holder of a certificate of franchise authority issued by the Indiana utility regulatory commission under IC 8-1-34-17; or
- (2) a holder of a local franchise (as defined in IC 8-1-34-8) that is in effect on March 14, 2008.

(c) A unit that is included, in whole or in part, in the service area of a franchise holder may adopt an ordinance requiring the franchise holder to provide the unit with the equipment necessary to allow the unit to provide both:

C
o
p
y



1 (1) visual and auditory emergency information; and
2 (2) instructions to viewers;
3 during an emergency or a disaster through an emergency video
4 override.

5 (d) An ordinance adopted under this section may set forth rules
6 and procedures for the operation of the emergency video override,
7 including activation points.

8 SECTION 5. [EFFECTIVE JULY 1, 2008] (a) There is
9 appropriated to the state police department three hundred fifty
10 thousand dollars (\$350,000) from the state general fund for the
11 direct expenses of the emergency alert system advisory committee
12 beginning July 1, 2008, and ending June 30, 2009.

13 (b) This SECTION expires July 1, 2009.

14 SECTION 6. An emergency is declared for this act.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Technology, Research and Development, to which was referred House Bill 1204, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-34-17, AS AMENDED BY P.L.1-2007, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Not later than fifteen (15) business days after the commission receives an application under section 16 of this chapter, the commission shall determine whether the application is complete and properly verified. If the commission determines that the application is incomplete or is not properly verified, the commission shall notify the applicant of the deficiency and allow the applicant to resubmit the application after correcting the deficiency. If the commission determines that the application is complete and properly verified, the commission shall issue the applicant a certificate of franchise authority. A certificate issued under this section must contain:

(1) a grant of authority to provide the video service requested in the application;

(2) a grant of authority to use and occupy public rights-of-way in the delivery of the video service, subject to:

(A) state and local laws and regulations governing the use and occupancy of public rights-of-way; and

(B) the police powers of local units to enforce local ordinances and regulations governing the use and occupancy of public rights-of-way; ~~and~~

(3) a statement that the authority granted under subdivisions (1) and (2) is subject to the holder's lawful provision and operation of the video service; **and**

(4) a statement that the authority granted under subdivisions (1) and (2) is subject to an emergency video override ordinance adopted by a unit under IC 36-1-4-20.

(b) Except as provided in subsection (c) and sections 16(c) and 28 of this chapter, the commission may not require a provider to:

(1) satisfy any build-out requirements;

(2) deploy, or make investments in, any infrastructure, facilities, or equipment; or

(3) pay an application fee, a document fee, a state franchise fee, a service charge, or any fee other than the franchise fee paid to a

C
o
p
y



local unit under section 24 of this chapter;
as a condition of receiving or holding a certificate under this chapter.

(c) This section does not limit the commission's right to enforce any obligation described in subsection (b) that a provider is subject to under the terms of a settlement agreement approved by the commission before July 29, 2004.

(d) The general assembly, a state agency, or a unit may not adopt a law, rule, ordinance, or regulation governing the use and occupancy of public rights-of-way that:

- (1) discriminates against any provider, or is unduly burdensome with respect to any provider, based on the particular facilities or technology used by the provider to deliver video service; or
- (2) allows a video service system owned or operated by a unit to use or occupy public rights-of-way on terms or conditions more favorable or less burdensome than those that apply to other providers.

A law, a rule, an ordinance, or a regulation that violates this subsection is void."

Page 3, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 3. IC 36-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all units.

(b) ~~Section Sections~~ 11 and 20 of this chapter ~~does~~ do not apply to townships.

SECTION 4. IC 36-1-4-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) As used in this section, "emergency video override" means the interruption of video programming with:

- (1) video programming on at least one (1) channel; and
 - (2) an audio message on all channels simultaneously;
- created to alert viewers of an emergency or a disaster.

(b) As used in this section, "franchise holder" refers to:

- (1) a holder of a certificate of franchise authority issued by the Indiana utility regulatory commission under IC 8-1-34-17; or
- (2) a holder of a local franchise (as defined in IC 8-1-34-8) that is in effect on March 14, 2008.

(c) A unit that is included, in whole or in part, in the service area of a franchise holder may adopt an ordinance requiring the franchise holder to provide the unit with the equipment necessary to allow the unit to provide both:

C
o
p
y



(1) visual and auditory emergency information; and
(2) instructions to viewers;
during an emergency or a disaster through an emergency video
override.

(d) An ordinance adopted under this section may set forth rules
and procedures for the operation of the emergency video override,
including activation points."

Page 3, after line 14, begin a new paragraph and insert:

"SECTION 6. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1204 as introduced.)

RESKE, Chair

Committee Vote: yeas 9, nays 1.

C
o
p
y

